

ttab

Attorney Reference No.: 60038.402901

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Autodesk, Inc.)

Opposer)

v.)

Dassault Systemes S. A.)

Applicant)

Opposition No.: 91/1586258



04-09-2004

U.S. Patent & TMO/TM Mail Rcpt Dt. #22

Resubmission of Notice of Opposition – Originally Signed

In response to the decision of the Trademark Trial and Appeal Board mailed 23 March 2004, Opposer Autodesk, Inc. submits the attached Notice of Opposition (submitted 25 November 2003) bearing an original signature of counsel Michael J. Hughes.

It is noted that the original Notice of Opposition in this matter was submitted electronically, via eTAS and that there did not appear to be a mechanism for submitting an original signature document therewith. Opposer was unaware of a requirement to follow the eTAS filing with an original signed document.

Respectfully Submitted,

Date: 05 April 2004

Michael J. Hughes – Reg. No 29,077
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Opposition No. 91/158625
Logo mark ("3DS"?)
Response to Motion for More Definite Statement

Serial No.: 78/069378
Filed: 15 June 2001
Att. Ref.: 60038.402901

OPPOSITION NAME: Autodesk, Inc. vs. Dassault Systemes S.A.
OPPOSITION NO.: 91/1586258

PROOF OF SERVICE

The undersigned certifies and declares as follows:

I am over 18 years of age and am not a party to this action. My business address is 1901 South Bascom Avenue, Suite 660, Campbell, California 95008, which is located in the county where any non-personal service described below took place.

On 06 April 2004, a copy of the following document:

Resubmission of Notice of Opposition – Originally Signed

was served on the following:

Served on:

Howard S. Michael
BRINKS HOFER GILSON & LEONE
P.O. Box 10395
Chicago, Illinois
60610

Represented party:

Applicant: Dassault Systemes S.A

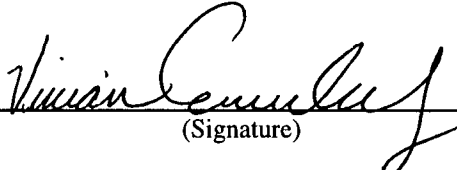
Service was accomplished as follows:

[xx] **By First Class Mail, Postage Prepaid, According to Normal Business Practices.** On the above date, at my place of business at the above address, I sealed the above document(s) in an envelope addressed to the above, and I placed that sealed envelope for collection and mailing following ordinary business practices, for deposit with the U.S. Postal Service. I am readily familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the U.S. Postal Service. Correspondence so collected and processed is deposited with the U.S. Postal Service the same day in the ordinary course of business, postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 06 April 2004.

Vivian Emberley


(Signature)

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On 06 April 2004, an original and three copies of the following document:

Resubmission of Notice of Opposition – Originally Signed

were served on the following:

Served on:

Commissioner for Trademarks
BOX: TTAB, NO FEE
2900 Crystal Drive
Arlington, Virginia 22202-3513

Service was accomplished as follows:

[xx] **By First Class Mail, Postage Prepaid, According to Normal Business Practices.** On the above date, at my place of business at the above address, I sealed the above document(s) in an envelope addressed to the above, and I placed that sealed envelope for collection and mailing following ordinary business practices, for deposit with the U.S. Postal Service. I am readily familiar with the business practice at my place of business for the collection and processing of correspondence for mailing with the U.S. Postal Service. Correspondence so collected and processed is deposited with the U.S. Postal Service the same day in the ordinary course of business, postage fully prepaid.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 06 April 2004.

Vivian Emberley


(Signature)

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BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Autodesk, Inc.)	
Opposer)	
)	Opposition No.: _____
v.)	
)	
Dassault Systemes S. A.)	
Applicant)	

NOTICE OF OPPOSITION

Autodesk, Inc., a Delaware corporation of San Rafael, California (hereinafter, "Opposer"), believes that it will be damaged by the registration of the trademark miscellaneous design (transliterated as "3DS"), application Serial No. **78/069378**, published in the Official Gazette on **01 July 2003**, for:

COMPUTER SOFTWARE, NAMELY 2D AND 3D SOFTWARE FOR DIGITAL PRODUCT CONCEPTION, DESIGN, VISUALIZATION, MODELING AND SIMULATION OF NEW PRODUCTS, MANUFACTURING PROCESSES AND PRODUCT LIFESTYLE MANAGEMENT IN RESPECT OF ALL TYPES OF CONSUMER AND COMMERCIAL PRODUCTS; CAD/CAM/CAE SOFTWARE FOR USE IN DIGITAL PRODUCT CONCEPTION, DESIGN, VISUALIZATION, MODELING AND SIMULATION OF NEW PRODUCTS, MANUFACTURING PROCESSES; MANUFACTURING AND PRODUCTION MANAGEMENT AND MONITORING SOFTWARE, PROJECT MANAGEMENT SOFTWARE, MODELING SOFTWARE, SOFTWARE FOR PROCESSING, MANAGING, ADMINISTERING, MODELING, ANALYZING, PLANNING, CONTROLLING, MONITORING OR SHARING OF RESOURCES, PROJECTS, OR TECHNICAL DATA, INDUSTRIAL DATA, BUSINESS DATA, FINANCIAL DATA, MANAGEMENT DATA, AND CORPORATE PROCESSES; INTEROPERABILITY SOFTWARE, NAMELY, COMPUTER

SOFTWARE FOR MANAGING KNOWLEDGE, INFORMATION, AND EXPERTISE PERTAINING TO PRODUCT DESIGN AND MANUFACTURING; GROUPWARE AND COLLABORATIVE TASK ENHANCEMENT SOFTWARE TO ENABLE COMMUNICATIONS AMONG PRODUCT DESIGNERS, MANUFACTURING MANAGERS, AND SHOP FLOOR SUPERVISORS; COMPUTER SOFTWARE DEVELOPMENT TOOLS, ELECTRONIC DATABASES IN THE FIELD OF TECHNICAL DATA, INDUSTRIAL DATA, BUSINESS DATA, FINANCIAL DATA, BUSINESS DATA, FINANCIAL DATA, MANAGEMENT DATA, AND CORPORATE PROCESSES RECORDED ON COMPUTER MEDIA IN INTERNATIONAL CLASS 009.

BUSINESS ORGANIZATION CONSULTATION; BUSINESS INFORMATION IN THE FIELDS OF SOFTWARE, MIDDLEWARE, COMMUNICATION TECHNOLOGIES AND RELATED ACTIVITIES; ARRANGING AND CONDUCTING BUSINESS CONFERENCES; CHARITABLE FUNDRAISING; ORGANIZATION OF TRADE FAIRS FOR COMMERCIAL OR ADVERTISING PURPOSES; BUSINESS ORGANIZATION CONSULTANCY IN INTERNATIONAL CLASS 035

TELECOMMUNICATIONS SERVICES, NAMELY, LOCAL AND LONG DISTANCE TRANSMISSION OF VOICE, DATA AND GRAPHICS BY MEANS OF TELEPHONE, TELGRAPHIC, CABLE AND SATELLITE TRANSMISSIONS; PROVIDING TELECOMMUNICATIONS TO A GLOBAL COMPUTER/COMMUNICATIONS NETWORK IN INTERNATIONAL CLASS 038

ORGANIZATION OF EDUCATIONAL EXHIBITIONS IN THE FIELD OF DIGITAL ENTERPRISE SOLUTIONS FEATURING COMPUTER AIDED DESIGN, ENGINEERING, MANUFACTURING, AND PRODUCT DATA MANAGEMENT; EDUCATION SERVICES, NAMELY, CONDUCTING SEMINARS IN THE FIELD OF DIGITAL ENTERPRISE SOLUTIONS

Serial No.: 78/069378

3DS (logo)

Applicant: Dassault Systemes, S.A.

Filed: 15 June 2001

Published: 01 July 2003

Att. Ref.: 60038.402901

FEATURING COMPUTER AIDED DESIGN, ENGINEERING,
MANUFACTURING, AND PRODUCT DATA MANAGEMENT
AND DISTRIBUTING COURSE MATERIALS IN CONNECTION
THEREWITH IN INTERNATIONAL CLASS 041

COMPUTER PROGRAMMING FOR OTHERS; COMPUTER
SOFTWARE DESIGN FOR OTHERS; MAINTENANCE OF
COMPUTER SOFTWARE; COMPUTER SOFTWARE AND
SYSTEMS CONSULTATION; COMPUTER SERVICES BY ALL
COMMUNICATION MEANS, INCLUDING ON-LINE OR VIA
INTERNET, NAMELY, COMPUTER SERVICES RELATED TO
SOFTWARE, COMPUTER SYSTEM DESIGN, EDITION,
INSTALLATION, ADAPTATION AND UPDATING OF
COMPUTER SOFTWARE, CREATING AND MAINTAINING OF
WEB SITES, HOSTING COMPUTER SITES, DESIGN,
REALIZATION AND UPDATING OF DATABASES IN
INTERNATIONAL CLASS 042

Opposers have previously requested and obtained extensions of time to
oppose in this matter, which extensions run until 28 November 2003.

The grounds for opposition are as follows:

Serial No.: 78/069378
3DS (logo)
Applicant: Dassault Systemes, S.A.

Filed: 15 June 2001
Published: 01 July 2003
Att. Ref.: 60038.402901

1. Since well before the Applicant's application and claimed dates of use, Opposer has extensively promoted and sold computer software in the graphics, design, animation and multimedia fields in connection with marks having the component "3DS", throughout the world and in the United States. Applicant has long used the mark 3D STUDIO and, more recently 3DS MAX as a principal trademark for one of its main product lines. As a result of this, the mark **3DS** has achieved public recognition throughout the United States and the world, and is recognized as being associated with Opposer and its products.

2. Opposers are the owners of various registrations for the trademark **3DS MAX** in United States (Registration No. 2733869) in the European Community (Reg. No. 1936822) and in other areas of the world.

3. The software and related products of Opposer and those of Applicant are sufficiently closely related that consumer confusion is likely, based upon the stated goods set forth in the application and upon marketplace realities. Opposer and Applicant are direct competitors

4. Applicant's mark "**3DS**" (to the extent it is interpreted as such) appropriates a principal component of Opposer's marks. Opposer does not particularly object to the graphical representation of Applicant's mark. However that mark is described as having the alphanumeric identity to "3DS" to which Opposer strenuously objects. Opposer specifically objects to the characterization of the mark as "3DS" and use by Applicant as such, rather than to the visual mark itself.

5. In view of the similarity of the marks and the goods of Applicant and Opposer, it is alleged that applicant's mark so resembles Opposer's previously used mark, as to be likely to cause confusion, or to cause mistake, or to deceive.

WHEREFORE, Opposer respectfully requests that application Serial No. **78/069378** be rejected, that no registration be issued thereon to Applicant, and that this opposition be sustained in favor of Opposer.

A duplicate copy of this Notice of Opposition as per 37 C.F.R. §2.104(a) and a check in the amount of \$300 constituting the filing fee for this Notice of Opposition are enclosed. The Commissioner is hereby authorized to charge any

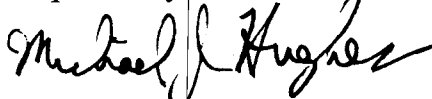
Serial No.: 78/069378
3DS (logo)
Applicant: Dassault Systemes, S.A.

Filed: 15 June 2001
Published: 01 July 2003
Att. Ref.: 60038.402901

additional fees which may be required, or credit any overpayment to Account No. 50-0384.

This Notice is being submitted in triplicate as required by 37 C.F.R. § 2.102(d).

Respectfully Submitted,



Date: 25 November 2003

Michael J. Hughes – Reg. No 29,077
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